



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

SPOUSES JIMMY M. LIU & G.R. No. 238805
 EMILE L. LIU,

Petitioners, Present:

- versus -

PERLAS-BERNABE, S.A.J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS,* and
 BALTAZAR-PADILLA,** JJ.

COURT OF APPEALS,
 REGIONAL TRIAL COURT,
 BRANCH 17 (DAVAO CITY)
 PRESIDING JUDGE AND
 ALVIN CRUZ,

Promulgated:

Respondents.

23 SEP 2020

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DECISION

INTING, J.:

This resolves the Petition for *Certiorari*¹ under Rule 65 of the Rules of Court praying that the Decision² dated July 31, 2017 and the Resolution³ dated January 31, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 07413-MIN be set aside and annulled.

The Antecedents

The case stemmed from a complaint for recovery of real property (*accion reivindicatoria*), reconveyance, to declare deed of sale by attorney-in-fact, power of attorney, affidavit of recovery and title null

* On official leave.

** On leave.

¹ *Rollo*, pp. 8-30.

² *Id.* at pp. 32-40; penned by Associate Justice Oscar V. Badelles with Associate Justices Romulo V. Borja and Ruben Reynaldo G. Roxas, concurring.

³ *Id.* at 41-43.

and void with damages filed by Spouses Jimmy M. Liu and Emile L. Liu (petitioners) against Alvin Cruz (private respondent) with Branch 17, Regional Trial Court (RTC), Davao City.

In the complaint, petitioners alleged that they are the registered owners in fee simple of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-296879 located at Juan Luna Street, Poblacion, Davao City (subject property) with an assessed value of ₱19,840.00 and a market value of ₱99,200.00. They discovered that their original owner's duplicate copy of TCT No. T-296879 was missing. Hence, they reported the loss to the police authorities, who conducted an investigation. The investigation was reflected in the Police Blotter Entry No. 457 dated March 22, 2005.⁴

Petitioners further alleged that they executed an Affidavit of Loss and caused its annotation at the dorsal portion of the original certificate of title with the Registry of Land Titles & Deeds of Davao City with Entry No. 246006 inscribed on May 11, 2005. In the process, they discovered that two entries were also annotated at the dorsal portion of the Original Title, to wit: a sham Affidavit of Recovery with Entry No. 294863 and a spurious Special Power of Attorney with Entry No. 294864. They also discovered an annotation with no entry number referring to an "Absolute Deed of Sale" between private respondent and Tek Liong T. Jao (Jao) showing that petitioners' subject property was sold to private respondent in the amount of ₱1,488,000.00. No specimen signatures of petitioners appeared on the deed. The deed was notarized before a notary public in Davao City.⁵

Petitioners furthermore alleged that upon verification with Atty. Remo Flores (Atty. Flores), Notary Public, he confirmed that his signatures appearing in the Affidavit of Recovery and Special Power of Attorney were forged; and that he did not notarize them. With this finding, Atty. Flores made a written report with Branch 20, RTC, Tacurong City which approved his notarial commission.⁶

Petitioners denied specifically under oath the genuineness of the purported Affidavit of Recovery and Special Power of Attorney, and

⁴ *Id.* at 9-10, 33.

⁵ *Id.* at 10.

⁶ *Id.*

asserted that they were the product of forgeries. They asserted that they did not receive a single centavo from the proceeds of the alleged sale.⁷

Hence, the complaint praying that the Affidavit of Recovery, Special Power of Attorney, and the Sale by Attorney-in-Fact be declared as null and void and inexistent; that TCT No. T-413429 in the name of private respondent be cancelled and declared as null and void; and that the ownership and possession of the subject property be reconveyed or returned to them.⁸

In his answer, private respondent denied the allegations of the petitioners, and as an affirmative defense, he alleged the following: (1) he was a buyer in good faith and a purchaser for value; (2) it was Jao who offered to him the sale of the subject property; (3) after an inspection of TCT No. T-296879, he noticed annotations/inscriptions of the Affidavit of Loss, Affidavit of Recovery, and Special Power of Attorney purportedly executed by petitioners; (4) and that he was never disturbed in his ownership and possession of the subject property until the filing of the complaint by petitioners.⁹

Private respondent further denied having personal knowledge of the loss of the owner's duplicate copy of TCT No. T-296879 and of the forged signatures of Atty. Flores in the Affidavit of Recovery and Special Power of Attorney. However, he asserted that the signatures of Atty. Flores have a close resemblance to the questioned signatures.¹⁰

By way of cross claim, private respondent averred that reimbursement or refund of the proceeds of the fraudulent transaction was proper; and that attorney's and appearance fees, litigation expenses, moral damages, and exemplary damages should be chargeable to Jao and Jerry Liu.¹¹

When it was private respondent's turn to present evidence, he filed a motion to dismiss on the ground of lack of jurisdiction considering that the assessed value of the subject property was only ₱19,840.00.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 10-11.

¹⁰ *Id.* at 11.

¹¹ *Id.*

The Ruling of the RTC

On January 7, 2017,¹² the RTC issued an Order denying the Motion to Dismiss. On motion for reconsideration, the RTC issued another Order dated April 6, 2017 denying it and setting the case for continuation of reception of private respondent's evidence.

Hence, private respondent filed a petition for *certiorari* with the CA, docketed as CA-G.R. SP No. 07413-MIN, assailing the denial of his motion to dismiss.¹³

In an Order dated July 24, 2017, the RTC declared and deemed the private respondent to have rested his case after manifesting that his witness was already dead.¹⁴

The Ruling of the CA

On July 31, 2017, the CA rendered the assailed Decision¹⁵ declaring that since the complaint was one for recovery of possession and title to the property, the assessed value of the property should be examined in order to determine which between the RTC or the Municipal Trial Court (MTC) has jurisdiction over the case;¹⁶ that jurisdiction is determined by the averments in the complaint;¹⁷ and that in the petitioners' complaint, it was revealed that the assessed value of the subject property was ₱19,840.00 which was well within the jurisdiction of the MTC.¹⁸

On motion for reconsideration, the CA issued the assailed the Resolution¹⁹ dated January 31, 2018 denying it.

¹² As culled from the Court of Appeals' Decision, *id.* at 36. The Order is dated January 7, 2016 in the Petition for *Certiorari* filed by petitioners with the Court, *id.* at 11.

¹³ *Id.* at 11.

¹⁴ *Id.* at 12.

¹⁵ *Id.* at pp. 32-40.

¹⁶ *Id.* at 38.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 41-43.

The Petition

The petitioners raise the following issues before the Court, to wit:

1. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in failing to hold that Civil Case No. 31, 986-07 is an action which is not capable of pecuniary estimation; consequently, the [RTC] is properly vested with jurisdiction to hear said case;
2. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in ordering the dismissal of Civil Case No. 31, 986-07 for lack of jurisdiction, in effect remanding the proceedings from the RTC Branch 17 Davao City to the first level court;
3. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding the assessed value of the Juan Luna Street property as determinative of jurisdiction of the court.²⁰

Our Ruling

The petition is technically and substantially flawed.

Procedural Aspect

The instant Petition for *Certiorari* is a wrong remedy and must, therefore, fail. The petition should not have been given due course at all.

Well-settled is the rule that appeals from judgments or final orders or resolutions of the CA should be by a verified petition for review on *certiorari* under Rule 45 of the Rules of Court. The Court made it clear that an aggrieved party is prohibited from assailing a decision or final order of the CA *via* Rule 65 because this recourse is proper only if the party has no plain, speedy, and adequate remedy in the course of law.²¹ In this case, petitioners had an adequate remedy which is a petition for review on *certiorari* under Rule 45 of the Rules of Court.

²⁰ *Id.* at 13.

²¹ *Pasiona, Jr. v. Court of Appeals, et al.*, 581 Phil. 124, 138 (2008), citing *Iloilo La Filipina Uycongo Corp. v. Court of Appeals*, 564 Phil. 163, 172 (2007).

Therefore, a petition for review on *certiorari* under Rule 45 is the correct remedy and not a special civil action for *certiorari* under Rule 65 of the Rules of Court.

In *Pasiona, Jr. v. Court of Appeals, et al.*,²² the Court ratiocinated in this wise:

Settled is the rule that where appeal is available to the aggrieved party, the special civil action for *certiorari* will not be entertained – remedies of appeal and *certiorari* are mutually exclusive, not alternative or successive. Hence, *certiorari* is not and cannot be a substitute for a lost appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. One of the requisites of *certiorari* is that there be no available appeal or any plain, speedy and adequate remedy. Where an appeal was available, as in this case, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion. Petitioner's resort to this Court by Petition for *Certiorari* was a fatal procedural error, and the instant petition must, therefore, fail.²³

Notably, by reason of petitioners' filing of a petition for *certiorari*, the period for them to file a petition for review on *certiorari* under Rule 45 had already lapsed by the time the instant petition was filed. Hence, the assailed CA Decision and Resolution had already attained finality.

Substantive Aspect

Substantially, the instant petition has no merit. The Court reiterates the ruling in *Heirs of Valeriano Concha, Sr. v. Sps. Lumocso*,²⁴ thus:

In a number of cases, we have held that actions for reconveyance of or for cancellation of title to or to quiet title over real property are actions that fall under the classification of cases that involve "title to, or possession of, real property, or any interest therein."

x x x Thus, under the old law, there was no substantial effect on jurisdiction whether a case is one, the subject matter of which was incapable of pecuniary estimation, under Section 19(1) of B.P. 129, or one involving title to property under Section 19(2). The

²² 581 Phil. 124 (2008)

²³ *Id.* at 138, citing *Iloilo La Filipina Uycongco Corp. v. Court of Appeals*, 564 Phil. 163, 173 (2007).

²⁴ 564 Phil. 581 (2007).

distinction between the two classes became crucial with the amendment introduced by R.A. No. 7691 in 1994, which expanded the exclusive original jurisdiction of the first level courts to include “all civil actions which involve title to, or possession of, real property, or any interest therein **where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney’s fees, litigation expenses and costs.**” Thus, **under the present law, original jurisdiction over cases the subject matter of which involves “title to, possession of, real property or any interest therein” under Section 19(2) of B.P. 129 is divided between the first and second level courts, with the assessed value of the real property involved as the benchmark.** This amendment was introduced to “unclog the overloaded dockets of the RTCs which would result in the speedier administration of justice.”²⁵ (Emphasis in the original and supplied.)

The CA correctly ruled that it is the MTC that has jurisdiction over petitioners’ complaint for *accion reivindicatoria* and not the RTC. The Court quotes and adopts the following, to wit:

Liu, in his complaint, seeks to annul the deeds of sale, special power of attorney, and an affidavit of recovery and likewise sought to declare the title in the name of Cruz void. While the said action at first blush, falls within the meaning of incapable of pecuniary estimation, Liu, ultimately wanted to recover possession and ownership of the property subject of litigation. The action he filed is really to determine who between Liu and Cruz has a better title to the property subject of litigation.

An action involving title to real property means that the plaintiffs['] cause of action is based on a claim that he owns such property or that he has the legal rights to have exclusive control, possession, enjoyment, or disposition of the same. Exactly the averment of Liu in his complaint.²⁶

WHEREFORE, the petition is **DISMISSED** for utter lack of merit. The Decision dated July 31, 2017 and the Resolution dated January 31, 2018 of the Court of Appeals in CA-G.R. SP No. 07413-MIN are **AFFIRMED**.

²⁵ *Id.* at 596-597. Citations omitted.

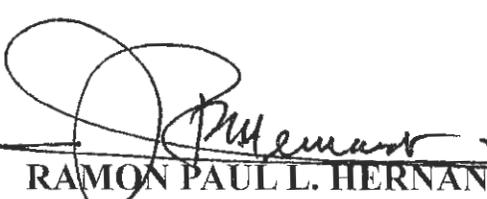
²⁶ *Rollo*, pp. 37-38.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

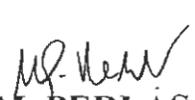

RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA

Chief Justice

